

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

<b>TRAXCELL TECHNOLOGIES, LLC,</b>	)	
<b>Plaintiff,</b>	)	
	)	<b>Civil Action No. 2:18-cv-412</b>
<b>v.</b>	)	
	)	
<b>NOKIA SOLUTIONS AND</b>	)	
<b>NETWORKS US LLC; NOKIA</b>	)	
<b>SOLUTIONS AND NETWORKS OY;</b>	)	<b>JURY TRIAL DEMANDED</b>
<b>NOKIA CORPORATION; NOKIA</b>	)	
<b>TECHNOLOGIES OY;</b>	)	
<b>ALCATEL-LUCENT USA, INC.; HMD</b>	)	
<b>GLOBAL; AND HMD GLOBAL OY,</b>	)	
<b>Defendants.</b>	)	

**PLAINTIFF’S RESPONSE TO HMD GLOBAL OY’S MOTION TO DISMISS<sup>1</sup>**

Plaintiff, Traxcell Technologies, LLC (“Traxcell”) respectfully responds to HMD Global OY’s (“HMD”) Motion to Dismiss requesting the Court deny the same and either deem service effective or grant an extension until May 27, 2019 for Traxcell to effectuate service.

**RELEVANT FACTS**

The Court previously ordered service on all defendants by March 28, 2019. In response, Plaintiff:

1. immediately issued a new summons in the name of HMD Global Oy;<sup>2</sup>
2. contacted opposing counsel to see if they would accept service, given that they had appeared at the scheduling conference (Counsel would not accept service);<sup>3</sup>

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<sup>1</sup> See ECF No. 44.

<sup>2</sup> See Declaration of William P. Ramey, III (“Ramey Decl.”) at ¶4.

<sup>3</sup> See id. at ¶5.

3. sent a copy of the complaint with the summons to both the England and Finland location of HMD;<sup>4</sup> and,

4. contracted with a third party for service, Process Service Network, LLC (ultimately, on March 29, 2019, Plaintiff learned service was not performed properly under the rules through Process Service Network).<sup>5</sup>

Plaintiff then served HMD through the Texas Secretary of State on or about April 8, 2019.<sup>6</sup> Plaintiff served HMD through the Texas Secretary of State with its First Amended Complaint and the proper summons.<sup>7</sup> Plaintiff has not received the Whitney Certificate back from the Texas Secretary of State, but the complaint was sent from the Texas Secretary of State on April 9, 2019.<sup>8</sup>

Further, Plaintiff received a Certificate from the Hauge Convention that HMD Global OY UK Branch, in London, Level 4, 4 Kingdom Street, Paddington Central, London W2 6BD was served on April 8, 2019 and that proof of service was filed with the court as ECF No. 46.<sup>9</sup> HMD was served the Original Complaint as process through the Hague Convention was started on December 27, 2018, i.e., before the First Amended Complaint was filed.<sup>10</sup> Further, HMD's counsel received the First Amended Complaint on or about February 27, 2019, as counsel for Plaintiff personally e-mailed a copy.<sup>11</sup>

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<sup>4</sup> See Ramey Decl. at ¶6.

<sup>5</sup> See *id.* at ¶7.

<sup>6</sup> See *id.* at ¶8.

<sup>7</sup> See *id.*

<sup>8</sup> See *id.* at ¶9.

<sup>9</sup> See *id.*

<sup>10</sup> See *id.*

<sup>11</sup> See *id.*

## ARGUMENT

Plaintiff has made a good faith effort to serve Defendant and Defendant has in fact been made aware of the lawsuit by the Court's deadline of March 28, 2019.<sup>12</sup> Moreover, HMD has been served under the Hague Convention and by the Texas Secretary of State.<sup>13</sup>

Plaintiff therefore requests that the Court deem HMD served as HMD has actual Notice of the Complaint and has participated in these proceedings. Alternatively, Plaintiff requests a 60-day extension to serve Defendant until May 27, 2019 to effect service as the Whitney Certificate is expected back from the Texas Secretary of State shortly.

HMD will not be prejudiced with either the Court deeming service effective or with the requested extension as Plaintiff served its infringement contentions on HMD as required by the Docket Control Order on April 17, 2019<sup>14</sup> and HMD's counsel was served with the First Amended Complaint on February 27, 2019.<sup>15</sup>

This request is not meant for delay but in the interests of justice.

## CONCLUSION

Traxcell requests the Court deny HMD's Motion and either deem service effective or grant an extension until May 27, 2019 to effectuate service.

Respectfully submitted,

**Ramey & Schwaller, LLP**

By: /s/ William P. Ramey, III  
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<sup>12</sup> See Ramey Decl. at ¶s 4-11.

<sup>13</sup> See *id.* at ¶s 8-10.

<sup>14</sup> See *id.* at ¶11.

<sup>15</sup> See *id.* at ¶10.

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**CERTIFICATE OF SERVICE**

Pursuant to the Federal Rules of Civil Procedure and Local Rule CV-5, I hereby certify that all counsel of record who have appeared in this case are being served on this day of April 24, 2019, with a copy of the foregoing via e-mail.

/s/ William P. Ramey, III  
William P. Ramey, III